

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3333

FINEDONNATION



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION

2017 JUL 24 AM 10:55

**SENSITIVE**

July 24, 2017

**MEMORANDUM**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin D. Roser *KE*  
Compliance Branch

SUBJECT: Reason to Believe Recommendation -  
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Montana 30 Day Post-General Report up to 48 hours before the November 8<sup>th</sup>, 2016 General Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Zinke for Congress, represents a candidate who won the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$37,900.00

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

# INFORMATION

1. Find reason to believe that Zinke for Congress and Lorna Kuney, in her official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,929 be assessed.

- Attachment**

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3333

Committee ID: C00550871

Committee Name: Zinke for Congress

Report Type: 30 Day Post-General Report (10/20/2016 – 11/28/2016)

48-Hour Reporting Period: 10/20/2016 – 11/05/2016

CONTRIBUTOR	DATE	AMOUNT
AT&T FEDERAL PAC	10/26/16	\$1,000.00
BYRNE, BRADLEY	10/26/16	\$1,000.00
COLE, TOM	10/26/16	\$2,000.00
CRAMER, KEVIN	10/26/16	\$1,000.00
DBM PHARMA FIELDS	10/26/16	\$2,500.00
DCR DECIDING CRITICAL RACES	10/26/16	\$1,000.00
FIRST IN FREEDOM	10/26/16	\$5,000.00
FUNDING DEVELOPMENT LEADERSHIP	10/26/16	\$2,000.00
GUTHRIE, BRETT	10/26/16	\$1,000.00
HUDSON, RICHARD	10/26/16	\$1,700.00
JOBS, ECONOMY AND BUDGET FUND <sup>1</sup>	10/26/16	\$5,000.00
JOHN S FUND	10/26/16	\$1,000.00
JORDAN, JIM	10/26/16	\$2,000.00
LONE STAR LEADERSHIP	10/26/16	\$1,000.00
NEWTON, JOAN W	10/26/16	\$2,700.00
OLD CASTLE MATERIAL INC	10/26/16	\$1,000.00
PIONEER PAC	10/26/16	\$5,000.00
SCOTT, AUSTIN	10/26/16	\$2,000.00
<b>TOTAL</b>		<b>\$37,900.00</b>

**Proposed Civil Money Penalty: \$3,929** (1 Notice Not Filed at \$139 each) + (10% of the Overall Contributions Not Filed))

<sup>1</sup> The RFAI incorrectly listed this contribution under a different name; however, the date and amount were accurately included in the backup chart.

UNCLASSIFIED

7/20/2017 2:31 PM

Federal Election Commission  
Reason to Believe Circulation Report  
48-Hour Notification Report

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
3333	C00650871	ZINKE FOR CONGRESS	MT	2016	RYAN K ZINKE	LORNA KUNEY	0	1	\$37,900	\$3,929

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3333  
Reason to Believe Recommendation - )  
Failure to File 48-Hour Notices under the )  
Administrative Fine Program: Zinke for )  
Congress and Lorna Kuney in her official )  
capacity as treasurer )

CERTIFICATION

I, Dayna C. Brown, Secretary and Clerk of the Federal Election

Commission, do hereby certify that on July 26, 2017, the Commission decided

by a vote of 5-0 to take the following actions in AF 3333:

1. Find reason to believe that Zinke for Congress and Lorna Kuney, in her official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,929 be assessed.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 27, 2017  
Date

Dayna C. Brown  
Dayna C. Brown  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 27, 2017

Lorna Kuney, in official capacity as Treasurer  
Zinke for Congress  
P.O. Box 1596  
Helena, MT 59624

C00550871  
AF#: 3333

Dear Ms. Kuney:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Zinke for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 20, 2016 and November 5, 2016, totaling \$37,900, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On July 26, 2017, the FEC found that there is Reason to Believe ("RTB") that Zinke for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$3,929. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$139 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$3,929 within forty (40) days of the finding, or by September 4, 2017.

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or September 4, 2017. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Zinke for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate



action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Aimee Wechsler in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$3,929 for the 2016 General Election 48-Hour Notification Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Zinke for Congress

FEC ID#: C00550871

AF#: 3333

PAYMENT DUE DATE: September 4, 2017

PAYMENT AMOUNT DUE: \$3,929

**ZINKE**  
***for Congress***  
PO Box 1596  
Helena MT 59624

August 18, 2017

Federal Election Commission  
Office of Administrative Review  
999 E Street NW  
Washington DC 20463

RE: Zinke for Congress  
C00550871  
AF#: 3333

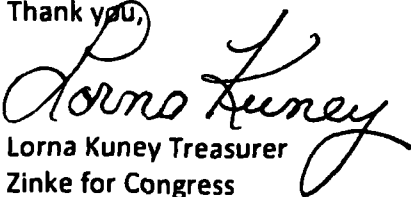
Dear Commission:

In response to your letter dated July 27, 2017 regarding failure to file 48 hour notice, our response is as follows:

All contributions that are brought forth in this complaint show up on the date of 10/26/2016. We did file 48 hour notices on that day. We had a batch of contributions that were put into our system late in the day of 10/26/2016 after our 48 hour report had been filed. The intention was to report those contributions with our 10/28/2016 48 hour report. Because of the date used in our system, they failed to pull to the proper report. This was purely a date entry error and was in no way an attempt to fail to report or hide information in anyway. As this request is almost a year old we have already improved our process to prevent mistakes like this in the future.

This was truly just an unfortunate mistake. We would appreciate your consideration to abate this penalty.

Thank you,

  
Lorna Kuney Treasurer  
Zinke for Congress



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 20, 2017

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3333 – Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer (C00550871)

**Summary of Recommendation**

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty.

**Reason-to-Believe Background**

In connection with the 2016 General Election held on November 8, 2016, the respondents were required to file 48-Hour Notices for contributions of \$1,000 or more received between October 20, 2016 and November 5, 2016. On July 26, 2017, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for 18 contributions totaling \$37,900 and made a preliminary determination that the civil money penalty was \$3,929 based on the schedule of penalties at 11 C.F.R. § 111.44. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on July 27, 2017 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") requires that the principal campaign committee of a candidate must notify the Commission, in writing, of any contribution of \$1,000 or more received after the 20<sup>th</sup> day but more than 48 hours before an election. The principal campaign committee must notify the Commission within 48 hours of receipt of the contribution. The 48-hour notification shall be in addition to all other reporting requirements under the Act. 52 U.S.C. § 30104(a)(6)(A) and 11 C.F.R. § 104.5(f). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

## Summary of Respondents' Challenge

On September 1, 2017, the Commission received the written response ("challenge") from the Treasurer, which states:

All contributions that are brought forth in this complaint show up on the date of 10/26/2016. We did file 48 hour notices on that day. We had a batch of contributions that were put into our system late in the day of 10/26/2016 after our 48 hour report had been filed. The intention was to report those contributions with our 10/28/2016 48 hour report. Because of the date used in our system, they failed to pull to the proper report. This was purely a date entry error and was in no way an attempt to fail to report or hide information in anyway. As this request is almost a year old we have already improved our process to prevent mistakes like this in the future.

## Analysis

The respondents explain that the contributions in question were not included on a 48-Hour Notice due to a data entry error. The Reviewing Officer recognizes the inadvertent error. However, negligence and committee software failures are both included at 11 C.F.R. § 111.35(d) as examples of a circumstance that will not be considered reasonably unforeseen and beyond the respondents' control. Therefore, the Reviewing Officer confirms that all 18 contributions, totaling \$37,900, should be included in the calculation of the civil money penalty. See Attachment 2.

The civil money penalty calculation for 48-Hour Notices is contained at 11 C.F.R. § 111.44. The calculation is \$139 plus 10% of the amount of the contributions not reported on *each* 48-Hour Notice, plus 25% for each previous violation. Thus, the amount of the civil money penalty should be  $[(\$139 \times 1 \text{ missing notice}) + (.10 \times \$37,900 \text{ in total contributions})]$  or \$3,929. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty.

## OAR Recommendations

1. Adopt the Reviewing Officer Recommendation for AF# 3333 involving Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 3333 that Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty; and
3. Send the appropriate letter.

## **Attachments**

**Attachment 1 –**

**Attachment 2 – OAR's Chart of Contributions for Which a 48-Hour Notice Was Not Received**

**Attachment 3 – Declaration from RAD and Telecoms**

**Attachment 4 – Declaration from OAR**

**OAR's Chart of Contributions for Which a 48-Hour Notice Was Not Received**

CONTRIBUTIONS INCLUDED IN RTB FINDING			COMMITTEE'S RESPONSE	OAR FD RECOMMENDATION	
CONTRIBUTOR	RECEIPT DATE	AMOUNT		ACTION	VIOLATION AMOUNT
AT&T FEDERAL PAC	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
BYRNE, BRADLEY	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
COLE, TOM	10/26/2016	\$2,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,000.00
CRAMER, KEVIN	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
DBM PHARMA FIELDS	10/26/2016	\$2,500.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,500.00
DCR DECIDING CRITICAL RACES	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
FIRST IN FREEDOM	10/26/2016	\$5,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$5,000.00
FUNDING DEVELOPMENT LEADERSHIP	10/26/2016	\$2,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,000.00
GUTHRIE, BRETT	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
HUDSON, RICHARD	10/26/2016	\$1,700.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,700.00
JOBS, ECONOMY AND BUDGET FUND	10/26/2016	\$5,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$5,000.00
JOHN S FUND	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00

**OAR's Chart of Contributions for Which a 48-Hour Notice Was Not Received**

CONTRIBUTIONS INCLUDED IN RTB FINDING			COMMITTEE'S RESPONSE	OAR-FD RECOMMENDATION	
CONTRIBUTOR	RECEIPT DATE	AMOUNT		ACTION	VIOLATION AMOUNT
JORDAN, JIM	10/26/2016	\$2,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,000.00
LONE STAR LEADERSHIP	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
NEWTON, JOAN W	10/26/2016	\$2,700.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,700.00
OLD CASTLE MATERIAL INC	10/26/2016	\$1,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$1,000.00
PIONEER PAC	10/26/2016	\$5,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$5,000.00
SCOTT, AUSTIN	10/26/2016	\$2,000.00	Data Entry Error	Include - 48-Hour Notice Required and Not Received	\$2,000.00
RTB Violation Total		\$37,900.		FD Violation Total	\$37,900

**Recommended FD Civil Money Penalty: \$3,929**

**[(139 x 1 missing notice) + (.10 x \$37,900 in total contributions)]**



## DECLARATION OF KRISTIN D. ROSER

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Zinke for Congress:
  - A) Request for Additional Information for the 2016 30 Day Post-General Report, received December 8, 2016, referencing the missing 48-Hour Notices (sent via electronic mail to: lorna@mt.net);
  - B) Reason-to-Believe Letter, dated July 27, 2017, referencing the missing 48-Hour Notices (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that Zinke for Congress has not yet filed the missing 48-Hour Notices with the Commission.
5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 18<sup>th</sup> day of September, 2017.

*Kristin Roser*

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Kristin D. Roser  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

April 25, 2017

LORNA KUNEY, TREASURER  
ZINKE FOR CONGRESS  
PO BOX 1596  
HELENA, MT 59624-1596

**Response Due Date**  
**05/30/2017**

IDENTIFICATION NUMBER: C00550871

REFERENCE: 30 DAY POST-GENERAL REPORT (10/20/2016 - 11/28/2016)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 2 item(s):

1. Schedule A of your report indicates that your committee may have failed to file one or more of the required 48-hour notices regarding "last minute" contributions received by your committee after the close of books for the 12-Day Pre-General Report (see attached). A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. The failure to file 48-hour notices may result in civil money penalties or legal enforcement action. (11 CFR § 104.5(f))

If any contribution of \$1,000 or more was incorrectly reported, you must amend your original report with the clarifying information.

2. Column B figures for the Summary and Post-Election Detailed Summary Page information should equal the sum of the Column B figures on your previous report and the Column A figures on this report minus the Column C figures. Please file an amendment to your report to correct the Column B discrepancies for Line(s) 6(a), 6(b), 6(c), 7(a), 7(c), 11(a)(iii), 11(b), 11(c), 11(e), 15, 16, 17, 20(a), 20(d), 21, and 22 and all subsequent report(s) that may be affected by this correction. Note that Column B should reflect only the election cycle-to-date

ZINKE FOR CONGRESS

Page 2 of 2

totals (11/5/14 through 11/8/16). (52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)) and 11 CFR § 104.3)

- Please be advised that the FEC Committee ID numbers for the following from political committees appear to be incorrect: NFIB Safe Trust (C90013509). Use of incorrect FEC Committee ID numbers may create difficulty in identifying the contributing committee for the public record. (11 CFR § 104.3(a)(4))

- Your report disclosed a category of financial activity that appears to be disclosed on the wrong line of the Detailed Summary Page. For your information and consideration when preparing future filings, proceeds from the sale of assets should be properly disclosed on a separate Schedule A, supporting Line 15 of the Detailed Summary Page. Please refer to the Form 3 instructions for each line when determining the proper categorization(s) for your next filing. (11 CFR § 104.3(a) and (b))

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. For additional information about the report review process or specific filing information for your committee type, please visit <http://www.fec.gov/rad/>. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1130.

Sincerely,



Bradley Matheson  
Assistant Branch Chief, Authorized  
Reports Analysis Division

**Missing 48-Hour Notices**  
**Zinke for Congress (C00550871)**

Contributor Name	Date	Amount	Election
AT&T Federal PAC	10/26/16	\$1,000.00	G2016
Byrne, Bradley	10/26/16	\$1,000.00	G2016
Cole, Tom	10/26/16	\$2,000.00	G2016
Cramer, Kevin	10/26/16	\$1,000.00	G2016
DBM Pharma Fields	10/26/16	\$2,500.00	G2016
DCR Deciding Critical Races	10/26/16	\$1,000.00	G2016
First in Freedom	10/26/16	\$5,000.00	G2016
Funding Development Leadership	10/26/16	\$2,000.00	G2016
Guthrie, Brett	10/26/16	\$1,000.00	G2016
Hudson, Richard	10/26/16	\$1,700.00	G2016
Scott, Austin	10/26/16	\$5,000.00	G2016
John S Fund	10/26/16	\$1,000.00	G2016
Jordan, Jim	10/26/16	\$2,000.00	G2016
Lone Star Leadership	10/26/16	\$1,000.00	G2016
Newton, Joan W	10/26/16	\$2,700.00	G2016
Old Castle Material Inc	10/26/16	\$1,000.00	G2016
Pioneer PAC	10/26/16	\$5,000.00	G2016
Scott, Austin	10/26/16	\$2,000.00	G2016

11/2/2016 11:00 AM

**DECLARATION OF RHIANNON MAGRUDER**

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The principal campaign committee of a candidate must file notifications disclosing contributions of \$1,000 or more which are received after the 20<sup>th</sup> day but more than 48 hours before an election. These notifications (also called 48-Hour Notices) must be filed with the Commission within 48 hours of the committee's receipt of the contribution(s).
- 3) I hereby certify that I have searched the Commission's public records and Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, did not file the required 48-Hour Notices for 18 contributions totaling \$37,900.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 20th day of September, 2017.

Rhiannon Magruder  
Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 21, 2017

Lorna Kuney, in official capacity as Treasurer  
Zinke for Congress  
P.O. Box 1596  
Helena, MT 59624

C00550871  
AF#: 3333

Dear Ms. Kuney:

On July 26, 2017, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Zinke for Congress and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices. The Commission also made a preliminary determination that the civil money penalty was \$3,929 based on the schedule of penalties at 11 C.F.R. § 111.44.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARY

2017 OCT -3 AM 11:36

**SENSITIVE**

October 3, 2017

**MEMORANDUM**

**To:** The Commission

**Through:** Alec Palmer *for PCO*  
Staff Director

**From:** Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

**Subject:** Final Determination Recommendation in AF# 3333 – Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer (C00550871)

On July 26, 2017, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for 18 contributions totaling \$37,900 and made a preliminary determination that the civil money penalty was \$3,929 based on the schedule of penalties at 11 C.F.R. § 111.44.

On September 1, 2017, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated September 20, 2017 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). On September 29, 2017, the Treasurer indicated they would not be submitting a response.

### **OAR Recommendations**

1. Adopt the Reviewing Officer Recommendation for AF# 3333 involving Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 3333 that Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty; and
3. Send the appropriate letter.

17002721272



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3333  
Final Determination Recommendation: )  
Zinke for Congress and Lorna Kuney, in )  
her official capacity as Treasurer )  
(C00550871) )

CERTIFICATION

I, Laura E. Sinram, Deputy Secretary of the Federal Election  
Commission, do hereby certify that on October 31, 2017, the Commission  
decided by a vote of 4-0 to take the following actions in AF 3333:

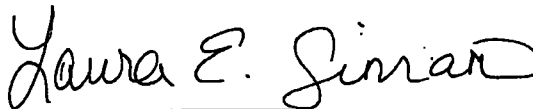
1. Adopt the Reviewing Officer recommendation for AF# 3333 involving Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 3333 that Zinke for Congress and Lorna Kuney, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$3,929 civil money penalty.
3. Send the appropriate letter.

Commissioners Goodman, Hunter, Walther, and Weintraub voted affirmatively for the decision. Commissioner Petersen recused himself with respect to this matter and did not vote.

Attest:

10/31/17

Date



Laura E. Sinram  
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 14, 2017

Lorna Kuney, in official capacity as Treasurer  
Zinke for Congress  
P.O. Box 1596  
Helena, MT 59624

C00550871  
AF#: 3333

Dear Ms. Kuney:

On July 26, 2017, the Commission found reason to believe ("RTB") that Zinke for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for 18 contributions totaling \$37,900 and made a preliminary determination that the civil money penalty was \$3,929 based on the schedule of penalties at 11 C.F.R. § 111.44. On September 1, 2017, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Zinke for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty in the amount of \$3,929 in accordance with 11 C.F.R. § 111.44. The Reviewing Officer Recommendation was sent to you on September 21, 2017.

On October 31, 2017, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Zinke for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assessed a civil money penalty of \$3,929. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the Final Determination Recommendation is attached.

On October 6, 2017, the Commission received your \$3,929 payment.

**If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3333

TECHNICAL